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NOV 27 2007

In re Application of	:	OFFICE OF PETITIONS
DANIEL MANHUNG WONG	:	
Application No. 10/786,941	:	DECISION ON PETITION
Filed: 02/24/2004	:	
Attorney Docket No. 50277-2406	:	

This is decision on the petition under 37 CFR 1:181, filed September 24, 2007, to withdraw the holding of abandonment.

On January 24, 2007, the Office mailed a nonfinal Office action, which set a three month shortened statutory period to reply. In the apparent absence of a timely filed response, the application became abandoned on April 25, 2007. On August 23, 2007, the Office mailed a Notice of Abandonment.

In the present petition, petitioners asserted that they filed a timely response to the nonfinal Office action. In support of the assertion, petitioners submitted a copy of the response and a date-stamped postcard receipt, acknowledging receipt of "1) Transmittal (1 page), 2) Amendment and Response (5 pages), and 3) Return receipt postcard" in the USPTO on April 26, 2007.

Upon reviewing the record, the reply was not located among the papers in the Image File Wrapper. The date-stamped postcard receipt serves as prima facie evidence of receipt of the reply on April 26, 2007. See MPEP 503. The copy of the response contained a certificate of mailing dated April 24, 2007. Therefore, petitioners are relying of the certificate of mailing as evidence of the timely filing of the response on April 24, 2007.

"Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512." MPEP 711.03(c)(I)(B). Pursuant to MPEP 512(IV), applicants may notify the USPTO of the previous mailing and supply a duplicate copy of the correspondence, accompanied by a statement attesting on a personal knowledge basis, or to the satisfaction of the Director, to the previous timely mailing. If the person signing the statement did not sign the certificate of

mailing, then the person signing the statement should explain how they have firsthand knowledge of the previous timely mailing or transmission. Such a statement should be filed promptly after the person becomes aware that the Office has not received the correspondence.

Petitioners did not provide a statement attesting to a personal knowledge of the mailing of the original response on the date indicated on the certificate of mailing (i.e., a statement by Martina Placid, the person who signed the certificate). Accordingly, the petition to withdraw the holding of abandonment is dismissed.

Before the Office can withdraw the holding of abandonment, petitioners must submit a request for reconsideration and a response in compliance with 37 CFR 1.8(b)(3). A request for reconsideration of this decision must be submitted with TWO (2) MONTHS of the mailing date of this decision. Extensions of this time period may be granted under 37 CFR 1.136. The request for reconsideration should include a cover sheet entitled "Renewed Petition Under 37 CFR 1.181."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition  
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By FAX: (571) 273-8300  
Attn: Office of Petitions

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Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

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